

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q80068
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 10/786,480	Filed February 26, 2004
	First Named Inventor Shin-ichi UEHARA	
	Art Unit 2629	Examiner Kevin M. NGUYEN
	WASHINGTON OFFICE 23373 CUSTOMER NUMBER	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.		
This request is being filed with a notice of appeal		
The review is requested for the reasons stated on the attached sheets. Note: No more than five (5) pages may be provided.		
<input checked="" type="checkbox"/> I am an attorney or agent of record.		
Registration number <u>25,665</u>		<u>/Howard L. Bernstein/</u> Signature
		<u>Howard L. Bernstein</u> Typed or printed name
		<u>(202) 293-7060</u> Telephone number
		<u>February 6, 2008</u> Date

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of
Shin-ichi UEHARA, et al.
Appln. No.: 10/786,480
Confirmation No.: 3109
Filed: February 26, 2004
For: IMAGE DISPLAY DEVICE, PORTABLE TERMINAL DEVICE AND DISPLAY PANEL

Docket No: Q80068
Group Art Unit: 2629
Examiner: Kevin M. NGUYEN

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MAIL STOP AF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

Pursuant to the Pre-Appeal Brief Conference Program, and further to the Examiner's Final Office Action dated November 6, 2007, Applicants file this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicants turn now to the rejections at issue:

As of the final rejection, dated November 6, 2007, Claims 1-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Woodgate et al (US 7,058,252; hereinafter "Woodgate").

As an initial matter, the Examiner has not responded to the arguments set forth specifically at pages 9 and 10 of the Amendment filed on September 6, 2007. However, MPEP §707.07(f) requires that "[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." In contrast to the requirements of MPEP §707.07(f), the Examiner has not responded to Applicants' arguments that Woodgate fails to disclose or suggest a plurality of pixels including a transmissive region and a reflective region and each of the above regions being divided into a red

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sub-region, green sub-region, and a blue sub-region, as recited in claim 16. To the contrary, the grounds of rejection are sustained without providing any substantive explanation whatsoever. Accordingly, Applicants submit that dependent claim 16 is allowable *at least* for those reasons previously of record. Applicants repeat some of those arguments in this response.

The Examiner states that 456 and 460 shown in Fig. 44 of Woodgate correspond to the claimed plurality of pixels. The Examiner further states that the same element 456 corresponds to the claimed transmissive region and that the same element 460 corresponds to the claimed reflective region 460. Claim 16 requires, *inter alia*, each pixel include a transmissive and a reflective region. As per the Examiner's analysis, for example 456 includes 456 and 460, which is not possible. Elements 456 and 460 correspond to separate regions in pixels shown in Fig. 44 of Woodgate.

The Examiner further states that elements 326, 330, 328 shown in Fig. 44 of Woodgate correspond to the claimed red sub-region, green sub-region, and blue sub-region respectively. Claim 16 requires, *inter alia*, each transmissive region and reflective region begin divided into the above sub-regions. Fig. 44 of Woodgate shows that a red pixel 326 is divided into the alleged reflective area 460 and the alleged transmissive region 458. See col. 52, lines 44-47. Therefore, Woodgate does not teach or suggest that each reflective area 460 and each transmissive region 458 is divided into a blue sub-region, red sub-region, and a green sub-region.

In view of the above exemplary reasons, the rejection of claim 16 as being anticipated by Woodgate must be withdrawn.

Regarding claim 1, the patent office contends the following:

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"a display panel (a pixel plane 468, fig. 43) disposed in front of said light source and having a plurality of pixel sections (460, 456) in the form of a matrix (fig. 44), each of said pixel sections including a first pixel for displaying an image for the first viewpoint (434, fig. 42) and a second pixel (440) for displaying an image for the second viewpoint, said second pixel being disposed at a position apart from said first pixel in a first direction; and

an optical unit (lens 138, fig. 46) disposed in front of said display panel for deflecting light emitted from said first and second pixels in the first direction (332),

wherein each of said first and second pixels (one pixel in fig. 44) includes a transmissive region (456) for transmitting the light emitted from said light source to said optical unit and a reflective region (460) for reflecting the exterior light incident from the front to said optical unit, and wherein said transmissive region and said reflective region are arranged in a second direction (333) perpendicular to the first direction in each pixel (a horizontal gap 333 is perpendicular to a vertical gap 332), as discussed in col. 52, lines 20-53".

The rejection of claim 1 is incorrect for *at least* the following reasons.

- 1) The rejection is inconsistent and ambiguous. The Examiner states that element 434 in Figure 42 corresponds to the claimed first pixel. The Examiner then states that the first pixel is shown in Figure 44. Figure 44 discloses pixels 326, 328, and 330. Hence, it is not at all clear if Figure 42 or Figure 44 discloses the claimed first pixel.
- 2) The rejection is factually incorrect. The Examiner states that Figure 44 discloses a transmissive region 456 and a reflective region 460. The Examiner further states that the transmissive region and the reflective region are arranged in a second direction 333, which is perpendicular from direction 332.

As is seen from Figure 44, gap 333 extends in the left-right direction and gap 332 extends in the up-down direction. However, the alleged transmissive region 456 and the alleged

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reflective region 460 in the pixel 326 are arranged or disposed in the up-down direction, i.e., in the direction 332. This is contrasting with the Examiner's contention.

3) The claim is being misinterpreted in the Office Action. It is alleged that the claimed first and second directions could be any directions in space. It is also alleged that Woodgate teaches a horizontal direction and a vertical direction. *See Office Action pages 9 and 10.*

Applicants submit that the claimed first and second directions are not just any directions. The direction in which a second pixel is disposed away from a first pixel is a first direction. Further, the direction in which a transmissive region and a reflective region of each of the pixels is arranged is a second direction, which is perpendicular to the first direction. Therefore, the features of claim 1 clearly define the first and second direction.

The newly cited portion of Woodgate merely states that the deflector may provide horizontal deflection, while lenses provide diffusion in the vertical direction. See col. 54, lines 42-57 of Woodgate. However, this portion of Woodgate also does not anticipate the features of claim 1.

Further, claim 1 is not anticipated by Woodgate for all the reasons previously of record.

Claim 17 recites, *inter alia*, an area of the transmissive region is equal to an area of the reflective region. The Examiner contends that Figure 44 of Woodgate shows that the transmissive pixel 456 is equal in area to the reflective pixel 460. *See Office Action page 7.*

However, “[w]hen the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value”. See MPEP 2125 citing *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951,

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956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000). Clearly, Woodgate does not suggest that the drawings are to scale. Therefore, the rejection of claim 17 must be withdrawn.

The Examiner requests the Applicants to point out the portion of the specification that supports these claims.

Applicants submit that the subject matter of claims 19 and 20 is supported at least by the description at pages 35 and 36, and by Figure 14.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Respectfully submitted,
/Howard L. Bernstein/
Howard L. Bernstein
Registration No. 25,665

Date: February 6, 2008